may become chargeable after the expiration of such period of sixty days, but shall not cease as to any demands for which his principal may have become liable before the expiration of such period, even though the facts establishing such liability may not be discovered till afterwards.

CHAPTER IV.

Of certain Acts prohibited to Revenue Officers, and of their Punishment for Misconduct.

31. No revenue officer shall, except with the express permission of Government, or of the Collector, or Superintendent of Survey to whom he is subordinate,— Prohibited acts.

(1) engage in trade, or be in any way concerned, directly or indirectly, either as principal or agent, in any commercial transaction whatever; Not to trade.

(2) purchase or bid either in person or by agent, or in his own name or in the name of another, or jointly or in shares with others, for any property which may under the provisions of this Act or of any other law for the time being in force be sold by order of any revenue or judicial authority in the district in which such officer is at the time employed. Not to purchase at public sale.

(3) hold directly or indirectly any farm or be in any way concerned on his private account in the collection or payment of revenue of any kind in the district in which he is at the time employed; Not to be concerned in the revenue.

and no revenue officer shall

Not to make private use of public money or property.

(4) derive either for himself or for any other individual any profit or advnatage beyond his lawful salary or emolument from any public money or property with the collection or charge of which he is entrusted or connected; or

Not to make or receive undue exactions or presents.

(5) demand or receive under the colour or by the exercise of his authority as such revenue officer, or by way of gratification or otherwise, or knowingly permit any other person to demand or receive on his behalf any sum or any consideration whatever over and above what he is legally entitled to demand or receive under the provisions of this Act or of any other law for the time being in force.

SUMMARY (SEC. 31.)

1 Government servants' conduct rules ... G 1

2 Government servants not to

(1) behave rudely with the public ... G 15

(2) receive salary for private work of others ... ... G 7

(3) take fees for commission for taking evidence ... ... G 5

(4) take part in the election of Legislative Council members ... G 12

3 Hereditary village officers ... ... G 2

4 Landed property ... ... G 6

5 Loyalty-declaration of ... G 10, 11, 13, 14

6 Pensioners-reemployment of ... ... G 8, 9

7 Talatis ... ... G 3, 4

G. 1. See Government servants' conduct rules in Appendix I. These rules apply to every person holding any civil office, other than a menial one, under the Government.

G. 2. **Hereditary village officers.**—This section does not apply to hereditary village officers. But if it is observed that such hereditary village officers avail themselves of their official position to the injury of others, the collectors and their assistants shall take due notice of all complaints from the parties injured and inflict proper punishments in any case that may be proved.

[G. R. No. 158 dated 12th January 1860.]

G. 3. **Talatis not to act as money-lenders,** —Talatis detected to be engaged as money-lenders in their villages should at once be dismissed. (G. R. No. 4120, dated 15th August 1878.)

G. 4. **Stipendiary village accountants not to hold land other than hereditary.**—Clauses (1) and (2) of Section 31 of the Land Revenue Code (which is the law in force and supersedes all previous orders) should be construed strictly in the case of stipendiary village accountants and permission should not be given to them to engage in money-lending or to purchase lands at public sales. Clause (3) if strictly enforced would prohibit them from holding any lands paying revenue to Government. But there is no objection to the holding of hereditary lands by stipendiary village accountants or absolutely to their holding of lands purchased otherwise than at a public sale. The section requires that every revenue officer who holds land paying revenue to Government in the district in which he is employed should obtain permission to continue to hold it, and the Collector can give or withhold permission according to the merits of each case, taking care that his orders are not unduly harsh. If the Collector considers that the position of a talati as a holder of land in his own charge,

taluka, or district conflicts in any case with the proper performance of his duty as a village accountant, he can have him transferred. (G. R. No. 5635, dated 31st July 1883.)

G. 5. **Fees received for commission to be paid into Treasury.**—Any paid servant of Government accepting a commission for taking evidence must hand over forthwith to his superior officer or the neighbouring treasury any and every sum which he may receive as a fee for his services.

Courts sending and receiving commissions should be informed that so far as Government is concerned there is no objection on its part to the defrayal of all fees that are paid or credited to Government by an equivalent amount in Court-fee Stamps. A note of such payment should be made by the transmitting Court and formally taken cognizance of by the Court executing the commission. Cancels G. R. No. 5401, dated 9th August 1888. (G. R. No. 2551, J. D., dated 11th May 1889 and G. R. No. 4893, dated 9th July 1889.)

G. 6. **Register of landed property held by Government Servants.**—In supercession of all existing orders ‡ on the subject it is directed that in every office shall be kept a register in (Appendix 2) showing the landed property held by each member † in superior service. The Register shall be filled up as regards every new member of the establishment upon his first appointment whether permanent or temporary.

2. Every officer shall submit to the authority by whom he was appointed on 1st April in each year—

(1) If he has acquired any new or alienated any old landed property during the previous year, a complete statement in the form of the register prescribed above.

(2) if he has not acquired any new or alienated any old landed property

during the previous year, a declaration in the appended form B.* (see Appx. 2.)

3. Officers appointed direct by Government should submit the information called for in the preceding paragraph to the Department of the Secretariat concerned. (G. R. G. D, 3000, dated 10th June 1903.)

Note.—These orders are not applicable to Police officers of lower ranks than Chief Constables. (G. R. G. D. 5812 dated 4th November 1903.)

G. 7. **Government Servant's regular private work.**—The Government of India are entirely opposed to any arrangement by which a Government Servant receives a salary from a private employer for regular work performed even in part during office hours. With certain exceptions all Government Servants are to be considered whole time employes and their leisure must be held to be no more than is actually necessary for recreation. (Government of India Home Department, Ecclesiastical, 331 dated 19th July 1906. Ecclesiastical 22 dated 10th November 1906—G. R. No. 10396, dated 2nd November 1906.)

G. 8. **Re-employment of pensioners.**—Commissioners of Divisions are authorized under article 524, Civil Service Regulations, to re-employ Government pensioners who having been non-gazetted officers are in receipt of a pension of not more than Rs. 100 a month (Order No. 10 of statement accompanying G. R. No. 6453 dated 19th November 1908 F. D.)

G. 9. The Settlement Commissioner and Director of Land Records is authorized to re-employ pensioned non-gazetted officers of the Bombay Survey Department in receipt of pension not exceeding Rs. 100 (G. R. No. 730 dated 25th January 1909.)

G. 10. **Declaration of loyalty.**—As a condition of entrance into the Government service, it is

desirable to exact on first appointment, a solemn declaration of loyalty to Government during the period of such service and the form of declaration (printed as Appendix 28) is accordingly prescribed. This declaration should be made by all superior servants on their appointment and by those already in the service on promotion to the rank of Mamlatdar and appointments of similar status. (G. R. G. D. No. 49, dated 6th January 1909.)

G. 11. The solemn declarations need not be stamped. They are to be taken so far as superior servants already in the service are concerned, only from men obtaining substantive promotion to the rank of Mamlatdar &c. and are to be filed in the office of the Collector of the district in which the declarants are at the time serving (G. R. G. D. No. 851 dated 15th February 1909.)

G. 12. **Taking part in the election of members Legislative bodies.**—No officer of Government of any department or grade in the service shall interfere directly or indirectly with the free choice of a Candidate by elective bodies, or to influence or direct the action of those bodies in any ways, and no indication is to be given by any official of the manner in which he himself personally intends to vote. Government desires it to be understood that any infraction of this order will be viewed with grave displeasure. (G. R. No. 778 dated 14th February 1910.)

G. 13. **Police Inspectors and Sub-Inspectors:** —The declaration of loyalty in the case of Police Inspectors and Sub-Inspectors should be made in the presence of the District Magistrate of their respective Districts. (G. R. No. 1904 dated 2nd April 1910.)

G. 14. **Temporary appointments.**—In the case of temporary appointments, the declaration should be taken if the appointment will last for three months or more. The declaration should be dis-

pensed with if the period of appointment is less than three months. (G. R. 3772 dated 20th June 1911.)

G. 15. **Relations between Officers of Government and the people.**—The paramount necessity of displaying courtesy, tact and good temper in their (officer's) dealings with the people with whom they (officers) are brought into daily contact has been more than once impressed upon all officers, European and Indian both by Local Governments and by the Government of India and must be known to all. But since the possession of these qualities has so insignificant a bearing upon the promotion of an officer and the lack of them consitutes so serious a disqualification, the Governor-General in Council desires again to impress the importance of this matter upon the Governor in Council and to inform him, with the Secretary of State's concurrence that manifestation of grave defects of temper and repeated loss of self-control should be regarded as constituting inefficiency. (G. R. No. 6275 dated 26th August 1913.)

Power of fining, reducing, suspending, and dismissing in whom to vest.

32. Subject to rules [a] made under section 214, all revenue officers may be fined, reduced, suspended, or dismissed for any such offence as is described in the last preceeding section, or for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct by the authority by whom such officer is appointed; or by any authority superior to such authority; and this power may be delegated by such first-mentioned authority, in whole or in part, to any subordinate officer on the same condition that the power of appointment may be delegated under section 21.

A revenue officer whose monthly salary exceeds Rs. 250, to be fined, etc., only by order of the Governor in Council.

Provided that, excepting Mamlatdars, no revenue officer, whose monthly salary exceeds Rs. 250, shall be fined, suspended, reduced, or dismissed except by order of the Governor in Council.

[a] Words repealed by Bom. IV of 1913, s. 10, are omitted.

SUMMARY (SEC. 32.)

1 Discharge dismissal or Removal ... G 6, 7

2 Suspension ... ... G 1

3 Village officers:—

(1) hereditary revenue—when to be fined by subdivisional officers ... G 5

(2) Police patels—when to be fined by First class Magistrates ... ... G 3

(3) Stipendiary revenue—when to be fined by Mamlatdars ... G 2

(4) ditto by Mahalkaris ... ... G 4

G. I. **Maximum period for which revenue officers may be suspended.**—The maximum period for which suspension from office should be awardable as a specific punishment under this section should be fixed at six months—this is the period mentioned in the Hereditary Offices Act (III. of 1874), and in the Bombay Village Police Act (VIII. of 1867). A maximum term of three months would in some instances prove sufficient, whilst the maximum term of twelve months would, on the other hand, seem too long. It appears hardly practicable to fix any maximum period for suspension pending or during enquiry into alleged or suspected misconduct, but in cases where an officer is suspended the enquiry should be carried out as promptly and

speedily as possible and no unnecessary delay should be permitted to occur. Such an enquiry would ordinarily not occupy a very long period, but when it is not completed within two months from the date of the suspension of the official concerned, the Collector should monthly report to the Commissioner the cause of delay till the case has been disposed of. (G. R. No. 9981, dated 19th December 1884.)

G. 2. **Mamlatdars empowered to fine village officers.**—(1) The Collector may, under Section 32 of the land Revenue Code, or under Section 84 of Bombay Act III. of 1874, delegate to a Mamlatdar the power of fining village officers (stipendiary as well as hereditary) subject to a right of revision and subject to any limitation, laid down by law or rule which the Collector may think fit to impose. Government have no objection to the power being so delegated in any district in which the Collector thinks it expedient to adopt this course. (G. R. No. 2116, dated 13th March 1883, and G. R. No. 4100, dated 30th May 1883.)

G. 3. G. R. No. 4100, dated 30th May 1883, delegating to Mamlatdars the power of fining hereditary village officers, was obviously intended to apply to revenue officers only, and not to override in any way the provisions of the village Police Act VIII. of 1867, Section 9 of which expressly limits the power of fining Police Patils to First Class Magistrates. If the resolution in question has been construed anywhere as empowering Mamlatdars to fine Patils for neglect of their Police duties, the practice is incorrect and should be discontinued. (G. R. No. 1953, dated 15th March 1893.)

G. 4. **Mahalkaris empowered to fine village officers** :—Collectors are authorized to delegate to any Mahalkari in his district the power to fine hereditary village officers in sums not exceeding Rs. 2 subject to the conditions in order Nos. 1 and 2 above. (G. R. No. 5891, dated 23rd August 1903.)

G. 5. **Power to fine may be delegated to sub-divisional officers only.**—In G. R. No. 9241, dated 24th September 1909, Government prohibited the Collecter etc., from punishing the village officers with fine directed that these should be dealt with more severity than by a mere fine when an occasion for punishing them arises. But on the representation of the Divisional Commissioners who brought to the notice of Government the inconvenience arising from these orders, Government have directed that the power to fine may be delegated to Sub-divisional Officers in accordance with the orders contained in G. R. No. 2116 of 13th March 1883 and 5891 of 28th August 1893 save in respect of stipendiary village accountants organised in a graded service in whose case the modification of the existing orders is not considered necessary. In the opinion of Government, fining should not be restored to freely, but should be employed as a puuishment to be inflicted on the spot and in public, in cases of wilful slackness and disobedience on the part of village officers. (G. R. No. 10431, dated 14th November 1912.)

G 6. **Dismisal, discharge, or removal.**—The punishment of dismissal should in future be considered to be a bar to re-employment in Government service and should be reserved for serious cases. Whenever the dismissal of a public servant is ordered, the order of dismissal must be in writing and must contain a clear statement of the reasons for the order.

In less serious cases of actions or omissions showing unfitness to perform the duties of a particular office, or of a particular character, and where it is not thought necessary to bar reemployment under Government, the term "removal" or "discharge" should be used. (G. R. No. 2749, dated 19th May 1905.)

G. 7. **Dismissals:—Notification of ineligibility for Government service.**—It is necessary that a

No. 10

Section 33—

Insert the following as N. 1 :—

"For the procedure to be followed in cases of dismissal, removal or reduction of Government servants see No. 55 of the Civil Services (Classification Control and Appeal) Rules."

Delete G. 1, G. 2, G. 5 and G. 6.

report should be made to Government in each case as these notifications have to be issued by Government. (G. R. No. 5989, dated 19th October 1910 (D.)

Section 3.

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"For

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33. When any revenue officer passes an order for fining, reducing, suspending, or dismissing any subordinate officer, he shall record such order or cause the same to be recorded together with the reasons therefor in writing under his signature in the language of the district or in English.

All such orders to be made in writing.

SUMMARY (SEC. 33.)

1 Copies of confidential letters not to be given &c. ... ... G 3

2 Dismissal-Procedure ... ... G 1, 2

3 Misconduct-inquiry into charges for G 4, 5, 6.

G 1. **Procedure to be followed in dismissing a public servant.**—In all cases ot dismissal, the dismissing authority should always record in English, under his own hand-writing, a statement showing briefly but clearly the charges brought against the official, the evidence supporting those charges, the motives which are supposed to have influenced him, and the opinion of the dismissing authority on each charge. (G. R. No. 1549, dated 9th May 1883).

G 2. In all cases of dismissal of Native subordinates for misconduct the officer should make an enquiry in judicial form before passing an order, or making recommendation, for dismissal. It is not meant that the admission of the evidence should be restricted by the law of judicial evidence. All evidence which in the opinion of the enquiring officer conduces to moral conviction should be admissible, but in whatever form received it should be noted and explained to the person charged.

Much evidence could be recorded simply in the form of questions to which the person charged should be required to give specific answers. The person charged should be allowed besides to place on record a full written statement of his defence (Para. 7, G.R. No. 7170 J.D. dated 16th October 1883.)

G 3. **Copies of letters &c. not to be given—** In conducting inquiries the accused person need not be granted copies of letters. The grant of confidential letters is open to serious objection. (G.R. No. 3780 dated 20th may 1904.)

G. 4. **Procedure to be adopted when instituting enquiries into charges of misconduct on the part of Government servants:**—It appears desirable to summarise and amend the existing orders relating to enquiries into charges of misconduct on the part of Government officers for the information and guidance of all Heads of Offices.

(2.) Government have noticed with regret that extreme delay sometimes occurs in the departmental enquiries, which necessarily precede further action in regard to charges of misconduct which may end in a criminal prosecution. Government desire to insist on their invariably being conducted with the utmost promptitude. Delay is most injurious both in the public interests and also in those of the officer concerned, inasmuch as it tends to render more difficult the discovery of the truth and keeps under suspicion, which may be unmerited, the individual affected.

(3.) When the preliminary enquiry indicates a criminal offence, application to prosecute should at once be made to the authority empowered to dismiss, and permission should be promptly granted, if that authority agrees that there is a *prima facie* case for a prosecution and does not consider that there exist adequate reasons, which must always be recorded, for not instituting a prosecu-

tion. This procedure is, however, unnecessary in those cases generally in which the misconduct amounts only to an offence against a special law or rules relating to official duties, though made triable by the Criminal Courts. In such cases, unless there are circumstances which render a criminal prosecution advisable, the misconduct may more suitably be dealt with departmentally. On the other hand, a belief that there is not sufficient evidence to make out a *prima facie* case before a Criminal Court is not a proper reason for substituting a departmental enquiry regarding a criminal offence proper for a prosecution.

(4.) On sanction to prosecute being obtained, the officer incriminated shall at once be placed before a Magistrate to be dealt with according to law. On the termination of the judicial proceedings it will be the duty of the departmental superior to consider the evidence and findings and determine whether the retention of the subordinate in the service is desirable or not. This is a matter entirely for his consideration, subject to an appeal to higher departmental authority. He is responsible for the retention or dismissal of his subordinates as may be expedient in the interests of the public service, and, in the case of an acquittal by a Magistrate, whilst he must carefully consider the reasons, he is not justified in retaining a servant whom he believes on the evidence to be corrupt or otherwise so discredited as to be unfitted for retention in the public service. In minor matters which have been made punishable by a court, if the superior officer has referred the matter to the decision of a magistrate, he will be well advised to accept the Magistrate's conclusion; but it does not always follow that in such cases conviction affects an officer's character so as to necessitate his dismissal or removal from service. In the more serious cases touching the moral character of a public servant the decision as to the retention or

dismissal or removal of an officer must ultimately rest with the departmental superior. The responsibility is his and cannot be avoided by the substitution of the opinion of the Magistrate or Judge for his own. Before an order of dismissal is made the officer as a general rule should be summoned and informed of the reasons for which it is considered proper to dismiss him, and any explanation he may have to make should be recorded and considered. When no prosecution has been instituted the departmental enquiry must be so conducted as to give to the accused servant a fair trial. This requires that he shall be confronted with the witnesses who incriminate him and be shown the documents used to substantiate the charge against him. He must be allowed to cross-examine hostile witnesses and to call in his own for examination, and his explanation must be reduced to writing and carefully considered. A departmental officer is not, it is true, bound by the technical rules of the Evidence Act, but the above principles, which are based on the universally recognised canons of fair dealing, must be attended to, and care should be taken to have the papers compiled in such manner as on their face to satisfy an appellate authority that the enquiry has been so conducted.

(5.) The punishment of "dismissal" should in future be considered to be a bar to re-employment in Government service, and should be reserved for serious cases. Whenever the dismissal of a public servant is ordered the order of dismissal must be in writing and must contain a clear statement of the reasons for the order.

In less serious cases of actions or omissions showing unfitness to perform the duties of a particular office or of a particular character, and where it is not thought necessary to bar re-employment under Government, the term "removal" or "discharge" should be used.

(6.) These orders embody the general principles which should be followed, but do not apply to petty cases of disobedience, insubordination and the like, which are usually disposed of in correspondence, provided that the officer inflicting the punishment takes care to see that the person concerned knows with what he is charged and has had an opportunity of explaining or denying the charge. (General Department Circular No. 2749, dated 19th May 1905.)

G. 5. Government of India Home Department (Public) No 1507 dated 24th June 1907, calls attention to 2031-40, dated 15th October 1898 and 37—1389—1404* dated 29th July 1879. (cited in Bombay Govt. No. 2218, dated 18th August 1879), regarding investigation of charges of misconduct against Government servants.

(2) The most common defects observed (by Government of India) are:—

(1) that officers frequently fail to comply with the prescribed procedure requiring a written charge and a written defence in respect of each offence;

(2) that after framing charges they often fail to give a specific finding on each charge; and

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* In order that a dismissed servant of Government may be able to exercise his right of appeal, it is obviously necessary that the charge against him, his defence, and the order thereon, should be reduced to writing. In the case of public servants, who are dismissed in consequence of facts or inferences elicited at a Judicial trial, or in the case of persons who abscond with an accusation over their heads, this procedure may be unnecessary or impossible. But in all other cases of the dismissal of public servants, the charge against a public servant should be reduced to writing, his defence should be either taken in, or reduced to, writing, and the decision on such defence should also be in writing. In many cases (such for instance as that of a clerk at an outlying tahsil station) the officer who passes the order of dismissal may not be able to make the enquiry himself, and the proceedings leading to dismissal would be conducted by the superior officer on the spot. The record of such charge, defence and decision would then furnish sufficient information for, and should be submitted to, the superior officer or the Government, to whom the dismissed servant may prefer an appeal. (G. of I. L. No. 37-1389-1404, dated 29th July 1879,—*vide* also paras. 4 to 9 of Despatch No. 42 of 1851, from the Court of Directors.)

(3) that sometimes they do not even discuss the charges framed but confine their remarks on the whole case to some major charge which has not even been framed against the person who is the subject of the inquiry.

(3.) The defects mentioned above and any other similar defects should be avoided. (G. R. G. D. 4493 dated 23rd July 1907). Refers to G. R. 6117, dated 7th November 1898.

G. 6. For detailed orders, see compilation of standing orders in the General Department (1901). Pages 15 to 23.

Fine not to exceed two months' pay;

34 No fine inflicted under the foregoing provisions shall in any case exceed the amount of two months' pay of the office held by the offender at the time of the commission of the offence.

how recovered

All fines inflicted under this chapter may be recovered from the officer's pay or, if necessary, may be realized in the same way as arrears of land revenue are recoverable under this Act.

N 1. *Vide* section 187, clause I.

Appeals.

35. If the Collector or Superintendent of Survey whether of his own motion, or on appeal from a subordinate officer's order, pass an order for fining, reducing, suspending or dismissing any revenue officer subordinate to him whose monthly salary does not exceed thirty-five rupees, or

if any authority superior to the Collector or Superintendent of Survey pass any such order against a revenue officer whose monthly salary does not exceed ninety-nine rupees, no appeal shall lie against such order, except and provided always that at least one appeal shall lie against

every order made, of his own motion, by any authority other than Government, for dismissing an officer whose monthly salary exceeds thirty five rupees.

and no appeal shall lie against any order for inflicting a fine not exceeding one rupee.

G. 1. **Orders regarding fining, &c., of subordinates drawing not more than Rs. 35 not appealable.**—The object of this section is to preclude all appeals to the Commissioner from the decision of a Collector in cases in which he punishes any of his subordinates in receipt of a salary not exceeding Rs. 35 per mensem by fine, dismissal, reduction or suspension and to render such order final, subject only to revision by Government. No order passed by a collector of the nature referred to in clause (1) of this section should be reversed, modified, or interfered with by the Commissioner. (G. R. No. 3872, dated 24th July 1880, and G. R. No. 611, dated 27 January 1898.)

G. 2. **Officers of other Departments.**—The limits in section 35 apply to public servants holding subordinate appointments in the Forest, Customs, Salt opium and Abkari Departments (G. R. R. D. No. 3010 dated 14th May, 1900.)

36. Nothing in this chapter shall affect any officer's liability to a criminal prosecution for any offence with which he may be charged.

An officer's liability to criminal prosecution not affected by this Act.

Any officer subjected to such prosecution may be suspended pending the trial, and at its close may, upon a consideration of the circumstances brought to light during its course, be suspended, reduced, or dismissed by any competent authority, whether he have been found guilty or not.

Officer may be suspended during trial, and subsequently suspended, reduced, or dismissed.